

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

SALAH SHAKIR,

Plaintiff,

v.

**BOARD OF TRUSTEES OF
REND LAKE COLLEGE, et al.,**

Defendants.

Case No. 08-cv-768-DRH

ORDER

HERNDON, Chief Judge:

Before the Court is the Parties' Amended Joint Stipulation for Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1). (**Doc. 64**). The Stipulation is between Plaintiff and Defendant John Huffman and states that the Parties stipulate and agree that Counts II, IV and VI are dismissed, with prejudice, as to Defendant John Huffman only. It appears from the record that the Stipulation filed as Doc. 64 is intended by the two parties to amend the Stipulation for Dismissal filed at Doc. 62. Neither Stipulation indicates the section of Rule 41(a)(1) (either (A)(i) or (A)(ii)) pursuant to which the parties seek dismissal.

Rule 41(a)(1)(a)(i), provides in relevant part that "the plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." **FED. R. CIV. P.**

41(a)(1)(A)(i). Defendant John Huffman filed an Answer to Plaintiff's Amended Complaint prior to the filing of the Stipulations at issue, making Rule 41(a)(1)(A)(i) inapplicable.

Rule 41(a)(1)(A)(ii) provides that "the plaintiff may dismiss an action without a court order by filing a stipulation signed by *all* parties who have appeared." **FED. R. Civ. P. 41(a)(1)(A)(ii) (emphasis added).** The Stipulations currently on file at Docs. 62 and 64 include the signatures of attorneys representing Plaintiff and Defendant John Huffman , but not those representing the other parties.

Because the Stipulations (Docs. 62 & 64) do not contain the signatures of *all* the parties to this action and because an answer from the Defendant sought to be dismissed is already on file, the Stipulations are not compliant with the Federal Rules of Civil Procedure and are without effect. Accordingly, the Court **STRIKES** the Stipulations (Docs. 62 & 64).

IT IS SO ORDERED.

Signed this 20th day of August, 2009.

/s/ David R. Herndon

**Chief Judge
United States District Court**